

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>MICHAEL TORNILLO,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:23-1930</b>
	:	
<b>v.</b>	:	<b>(MANNION, J.)</b>
	:	
<b>PREFERRED MANAGEMENT</b>	:	
<b>ASSOCIATES and</b>	:	
<b>THORNHURST COUNTRY</b>	:	
<b>CLUB ESTATES,</b>	:	
	:	
<b>Defendants</b>	:	
	:	

**ORDER**

Pending before the court is the report of Magistrate Judge Joseph F. Saporito, Jr., which recommends that the plaintiff's complaint be dismissed without leave to amend. (Doc. 8). No objections have been filed to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges

should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

By way of relevant background, the plaintiff initiated the instant §1983 civil rights action against the Thornhurst Country Club Estates Property Owners' Association ("POA") and Preferred Management Associates claiming that POA rules prohibiting him from advertising the rental of his property for less than a period of three months violates his First Amendment right to free speech. In considering the plaintiff's complaint, Judge Saporito found that neither defendant is a state actor and therefore the instant action fails to state a claim upon which relief can be granted under §1983. Because any attempt at amendment would be futile, Judge Saporito recommends that the instant action be dismissed with prejudice. The plaintiff has failed to file objections to Judge Saporito's report.

Upon review of the report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Saporito to his conclusions. As such, the court will adopt the report and recommendation in its entirety as the decision of the court.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- (1) The report and recommendation of Judge Saporito (**Doc. 8**) is **ADOPTED IN ITS ENTIRETY** as the decision of the court.
- (2) The plaintiff's complaint (**Doc. 1**) is **DISMISSED WITH PREJUDICE**.
- (3) The Clerk of Court is directed to **CLOSE THIS CASE**.

*s/ Malachy E. Mannion*

**MALACHY E. MANNION**

**United States District Judge**

**DATE: February 12, 2024**

23-1930-01